UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FATBOY THE ORIGINAL B.V. and FATBOY USA, LLC Plaintiffs, v. DUMBO LOUNGE SACKS, LLC, AND JARED GOETZ D/B/A THE GADGET SNOB, Defendants.	Civil Action No. 3:17-cv-1229

ORIGINAL COMPLAINT

Plaintiffs Fatboy the Original B.V. ("Fatboy") and Fatboy USA, LLC ("Fatboy USA" and, together with Fatboy, "Plaintiffs"), for their Complaint against Defendants Dumbo Lounge Sacks, LLC ("Dumbo") and Jared Goetz d/b/a The Gadget Snob ("Goetz", and together with Dumbo, "Defendants") allege as follows:

SUBSTANCE OF THE ACTION

1. Fatboy is the owner of all rights worldwide in and relating to the wildly popular LAMZAC THE ORIGINAL inflatable lounger (the "LAMZAC Lounger"), including U.S. Patent Nos. D764,823 and D775,479 (the "LAMZAC Lounger Patents"). Fatboy USA has an exclusive license from Fatboy to distribute and promote the LAMZAC Lounger in the United States. The claim asserted herein arises out of and is based on Defendants' brazen and willful infringement of the LAMZAC Lounger Patents. Accordingly, Plaintiffs bring claims for design patent infringement under Section 271 of the U.S. Patent Act, 35 U.S.C. § 271.

2. Plaintiffs seek injunctive relief to stop Defendants' unlawful distribution and sale of their infringing products. Plaintiffs also seek monetary relief in an amount sufficient to compensate for their loss, an accounting and award of Defendants' total profits flowing from their infringing activities; prejudgment interest; costs and attorneys' fees; and all other relief the Court deems just and proper.

JURISDICTION AND VENUE

3. This Court has jurisdiction under Sections 1331, 1332, and 1338(a) and (b) of the Judicial Code, 28 U.S.C. §§ 1331, 1332, 1338(a) & (b).

4. This Court has personal jurisdiction over Dumbo pursuant to Texas Civil Practice and Remedies Code § 17.042 because, upon information and belief, (i) Dumbo regularly does and solicits business within the State of Texas; (ii) Dumbo has engaged in the marketing, promotion, advertising and offering for sale of its infringing products within the State of Texas, including by offering its infringing product at an outdoor festival in Dallas, Texas, and marketing, promoting and offering for sale its infringing product via its interactive ecommerce websites; and (iii) Dumbo has committed torts in the State of Texas, namely the marketing, promotion, advertising, sale and/or offering for sale of its infringing product in Texas, in violation of Plaintiffs' rights.

5. This Court has personal jurisdiction over Goetz pursuant to Texas Civil Practice and Remedies Code § 17.042 because, upon information and belief, (i) Goetz regularly does and solicits business within the State of Texas; (ii) Goetz has engaged in the marketing, promotion, advertising and offering for sale of his infringing products within the State of Texas, and marketing, promoting and offering for sale his infringing product via his interactive ecommerce website; and (iii) Goetz has committed torts in the State of Texas, namely the marketing,

promotion, advertising, sale and/or offering for sale of his infringing product in Texas, in violation of Plaintiffs' rights.

6. Venue is proper under Section 1391(b) and 1400(b) of the Judicial Code, 28 U.S.C. §§ 1391(b), 1400(b), because Defendants are subject to personal jurisdiction in this district and a substantial part of the events giving rise to the claims occurred in this district, including Defendants' marketing, promoting, advertising, selling and/or offering for sale their infringing products in this district.

THE PARTIES

7. Plaintiff Fatboy the Original B.V. is a limited liability company organized and existing under the laws of the Netherlands, having a place of business at De Steenbok 19 Den Bosch, 5215 MG Netherlands.

8. Plaintiff Fatboy USA, LLC is a limited liability company organized and existing under the laws of the State of Texas, with its principal place of business at 875 West Sandy Lake Road, #100, Coppell, TX 75019.

9. Upon information and belief, Defendant Dumbo Lounge Sacks, LLC is a limited liability company organized and existing under the laws of the State of California, with its principal place of business at 940 W. Washington Blvd, Los Angeles, CA 90015.

10. Upon information and belief, Defendant Jared Goetz is an individual living at the address at 3562 Piedmont Rd NE, Atlanta Georgia 30305, who does business as The Gadget Snob at the interactive ecommerce website thegadgetsnob.com, and who is a member of 12th Bean, LLC, which is a member of Defendant Dumbo.

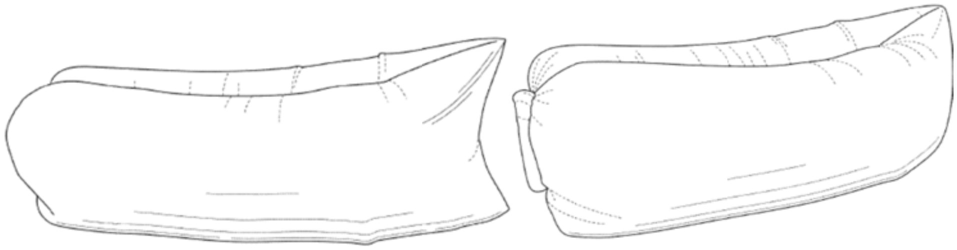
FACTS COMMON TO ALL CLAIMS FOR RELIEF

I. THE LAMZAC LOUNGER PATENTS

11. The LAMZAC Lounger Patents each depict the design of a lounger. A copy of the LAMZAC Lounger Patents is attached hereto as **Exhibit A**. Profile views of the patented designs as they appear in the LAMZAC Lounger Patents are shown below:

U.S. Patent No. D764,823

U.S. Patent No. D775,479



12. Fatboy USA has an exclusive license from Fatboy to distribute and promote products embodying the LAMZAC Lounger Patents in the United States.

13. The LAMZAC Lounger Patents each claim a priority date of January 28, 2015, based on Fatboy's Registered European Community Design No. 002621904-0001.

II. DEFENDANT DUMBO'S INFRINGING ACTIVITIES

14. On information and belief, Dumbo has manufactured, advertised, offered for sale, sold, distributed, imported, and/or exported inflatable loungers called the "Dumbo Lounge Sack" (the "Infringing Dumbo Product"), with a design that is substantially the same as the designs depicted in the LAMZAC Lounger Patents. An example of the Infringing Dumbo Product is shown below:

DUMBO
loungesacks.com

15. Upon information and belief, Dumbo markets and sells its Infringing Dumbo Product online at its website, www.dumboloungesacks.com, and through various retailers and online channels.

16. Upon information and belief, Dumbo engaged and continues to engage in the above activities willfully, with the knowledge that the design of the Infringing Dumbo Product is substantially the same as the designs depicted in the LAMZAC Lounger Patents without authorization.

17. Dumbo is not related to or affiliated with Plaintiffs in any way. Dumbo has not received a license or authorization from Plaintiffs for any purpose whatsoever, including for the acts described herein.

18. Dumbo's unauthorized acts as described herein have caused and will continue to cause irreparable damage to Plaintiffs and their business unless restrained by this Court.

III. DEFENDANT GOETZ'S INFRINGING ACTIVITIES

19. On information and belief, Goetz has manufactured, advertised, offered for sale, sold, distributed, imported, and/or exported inflatable loungers called the "Hangout Sofa" (the "Infringing Goetz Product"), with a design that is substantially the same as the designs depicted in the LAMZAC Lounger Patents. An example of the Infringing Goetz Product is shown below:

20. Upon information and belief, Goetz markets and sells his Infringing Goetz Product online at his website, www.thegadgetsnob.com, and through various other United States sales channels.

21. Upon information and belief, Goetz engaged and continues to engage in the above activities willfully, with the knowledge that the design of the Infringing Goetz Product is substantially the same as the designs depicted in the LAMZAC Lounger Patents without authorization.

22. Goetz is not related to or affiliated with Plaintiffs in any way. Goetz has not received a license or authorization from Plaintiffs for any purpose whatsoever, including for the acts described herein.

23. Goetz's unauthorized acts as described herein have caused and will continue to cause irreparable damage to Plaintiffs and their business unless restrained by this Court.

FIRST CLAIM FOR RELIEF:
DESIGN PATENT INFRINGEMENT BY DUMBO
IN VIOLATION OF 35 U.S.C. § 271 (Patent No. D764,823)

24. Plaintiffs repeat and incorporate by reference the foregoing allegations contained in paragraphs 1 through 23 as if fully set forth herein.

25. Fatboy owns U.S. Patent No. D764,823, which issued on August 30, 2016. Fatboy USA has an exclusive license from Fatboy to distribute and promote products embodying the design set forth in U.S. Patent No. D764,823 in the United States.

26. U.S. Patent No. D764,823 is valid and subsisting.

27. Upon information and belief, Dumbo, without authorization from Plaintiffs, has distributed, advertised, promoted, offered for sale and sold the Infringing Dumbo Product, the design of which is substantially the same as the design set forth in U.S. Design Patent No. D764,823, and embodies the design protected by such patent.

28. Dumbo's Infringing Dumbo Product appropriates the novel ornamental features set forth in U.S. Patent No. D764,823 such that an ordinary observer familiar with the prior art designs, giving such attention as a purchaser usually gives, would find Plaintiffs' and Dumbo's designs to be substantially the same and would be deceived into believing that the Infringing Dumbo Product is the same as Fatboy's patented design.

29. By the foregoing acts, Dumbo has directly infringed, infringed under the doctrine of equivalents, contributorily infringed, and/or induced infringement of, and continues to so infringe, U.S. Patent No. D764,823.

30. Upon information and belief, Dumbo's aforesaid conduct has been undertaken knowingly, willfully, and in bad faith, and with knowledge of Plaintiffs' rights.

31. Dumbo's conduct violates Section 271 of the Patent Act, 35 U.S.C. § 271 and has caused, and unless enjoined by this Court, will continue to cause, Plaintiffs to sustain irreparable damage, loss, and injury, for which Plaintiffs have no adequate remedy at law.

32. Plaintiffs have complied with 35 U.S.C. § 287 to the extent it is applicable to them.

SECOND CLAIM FOR RELIEF:
DESIGN PATENT INFRINGEMENT BY DUMBO
IN VIOLATION OF 35 U.S.C. § 271 (Patent No. D775,479)

33. Plaintiffs repeat and incorporate by reference the foregoing allegations contained in paragraphs 1 through 23 as if fully set forth herein.

34. Fatboy owns U.S. Patent No. D775,479, which issued on January 3, 2017. Fatboy USA has an exclusive license from Fatboy to distribute and promote products embodying the design set forth in U.S. Patent No. D775,479 in the United States.

35. U.S. Patent No. D775,479 is valid and subsisting.

36. Upon information and belief, Dumbo, without authorization from Plaintiffs, has distributed, advertised, promoted, offered for sale and sold the Infringing Dumbo Product, the designs of which is substantially the same as the design set forth in U.S. Design Patent No. D775,479 and embodies the design protected by such patent.

37. Dumbo's Infringing Dumbo Product appropriates the novel ornamental features set forth in U.S. Patent No. D775,479 such that an ordinary observer familiar with the prior art designs, giving such attention as a purchaser usually gives, would find Plaintiffs' and Dumbo's designs to be substantially the same and would be deceived into believing that the Infringing Dumbo Product is the same as Fatboy's patented design.

38. By the foregoing acts, Dumbo has directly infringed, infringed under the doctrine of equivalents, contributorily infringed, and/or induced infringement of, and continues to so infringe, U.S. Patent No. D775,479.

39. Upon information and belief, Dumbo's aforesaid conduct has been undertaken knowingly, willfully, and in bad faith, and with knowledge of Plaintiffs' rights.

40. Dumbo's conduct violates Section 271 of the Patent Act, 35 U.S.C. § 271 and has caused, and unless enjoined by this Court, will continue to cause, Plaintiffs to sustain irreparable damage, loss, and injury, for which Plaintiffs have no adequate remedy at law.

41. Plaintiffs have complied with 35 U.S.C. § 287 to the extent it is applicable to them.

THIRD CLAIM FOR RELIEF:
DESIGN PATENT INFRINGEMENT BY GOETZ
IN VIOLATION OF 35 U.S.C. § 271 (Patent No. D764,823)

42. Plaintiffs repeat and incorporate by reference the foregoing allegations contained in paragraphs 1 through 23 as if fully set forth herein.

43. Fatboy owns U.S. Patent No. D764,823, which issued on August 30, 2016. Fatboy USA has an exclusive license from Fatboy to distribute and promote products embodying the design set forth in U.S. Patent No. D764,823 in the United States.

44. U.S. Patent No. D764,823 is valid and subsisting.

45. Upon information and belief, Goetz, without authorization from Plaintiffs, has distributed, advertised, promoted, offered for sale and sold the Infringing Goetz Product, the design of which is substantially the same as the design set forth in U.S. Design Patent No. D764,823, and embodies the design protected by such patent.

46. Goetz's Infringing Goetz Product appropriates the novel ornamental features set forth in U.S. Patent No. D764,823 such that an ordinary observer familiar with the prior art designs, giving such attention as a purchaser usually gives, would find Plaintiffs' and Goetz's designs to be substantially the same and would be deceived into believing that the Infringing Goetz Product is the same as Fatboy's patented design.

47. By the foregoing acts, Goetz has directly infringed, infringed under the doctrine of equivalents, contributorily infringed, and/or induced infringement of, and continues to so infringe, U.S. Patent No. D764,823.

48. Upon information and belief, Goetz's aforesaid conduct has been undertaken knowingly, willfully, and in bad faith, and with knowledge of Plaintiffs' rights.

49. Goetz's conduct violates Section 271 of the Patent Act, 35 U.S.C. § 271 and has caused, and unless enjoined by this Court, will continue to cause, Plaintiffs to sustain irreparable damage, loss, and injury, for which Plaintiffs have no adequate remedy at law.

50. Plaintiffs have complied with 35 U.S.C. § 287 to the extent it is applicable to them.

FOURTH CLAIM FOR RELIEF:
DESIGN PATENT INFRINGEMENT BY GOETZ
IN VIOLATION OF 35 U.S.C. § 271 (Patent No. D775,479)

51. Plaintiffs repeat and incorporate by reference the foregoing allegations contained in paragraphs 1 through 23 as if fully set forth herein.

52. Fatboy owns U.S. Patent No. D775,479, which issued on January 3, 2017. Fatboy USA has an exclusive license from Fatboy to distribute and promote products embodying the design set forth in U.S. Patent No. D775,479 in the United States.

53. U.S. Patent No. D775,479 is valid and subsisting.

54. Upon information and belief, Goetz, without authorization from Plaintiffs, has distributed, advertised, promoted, offered for sale and sold the Infringing Goetz Product, the designs of which is substantially the same as the design set forth in U.S. Design Patent No. D775,479 and embodies the design protected by such patent.

55. Goetz's Infringing Goetz Product appropriates the novel ornamental features set forth in U.S. Patent No. D775,479 such that an ordinary observer familiar with the prior art

designs, giving such attention as a purchaser usually gives, would find Plaintiffs' and Goetz's designs to be substantially the same and would be deceived into believing that the Infringing Goetz Product is the same as Fatboy's patented design.

56. By the foregoing acts, Goetz has directly infringed, infringed under the doctrine of equivalents, contributorily infringed, and/or induced infringement of, and continues to so infringe, U.S. Patent No. D775,479.

57. Upon information and belief, Goetz aforesaid conduct has been undertaken knowingly, willfully, and in bad faith, and with knowledge of Plaintiffs' rights.

58. Goetz's conduct violates Section 271 of the Patent Act, 35 U.S.C. § 271 and has caused, and unless enjoined by this Court, will continue to cause, Plaintiffs to sustain irreparable damage, loss, and injury, for which Plaintiffs have no adequate remedy at law.

59. Plaintiffs have complied with 35 U.S.C. § 287 to the extent it is applicable to them.

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

1. Permanently enjoining and restraining Defendants, their agents, servants, employees, successors, and assigns and all those in active concert or participation with them, from:

(a) infringing or inducing infringement of the LAMZAC Lounger Patents; or

(b) assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraph (a) above.

2. Directing that Defendants turn over to Plaintiffs for impoundment and eventual destruction, without compensation to Defendants, all materials in their possession or control that violate the provisions of paragraph 1(a) above, along with all articles by means of which such unauthorized copies may be reproduced.

3. Directing that Defendants, at their own expense, recall from any distributors, retailers, vendors, or others to whom they have distributed materials that violate the provisions of paragraph 1(a) above, and that Defendants deliver up to Plaintiffs for destruction all materials returned to it.

4. Directing that Defendants file with the Court and serve upon Plaintiffs, within thirty (30) days of the entry of injunction prayed for herein, a written report under oath or affirmed under penalty of perjury setting forth in detail the form and manner in which it has complied with the permanent injunction.

5. Awarding Plaintiffs all damages sustained as a result of Defendants' infringement described above, together with appropriate interest thereon and that such sums be trebled pursuant to 35 U.S.C. § 284.

6. Awarding Plaintiffs the total profits realized by Defendants from its infringement described above pursuant to 35 U.S.C. § 289.

7. Granting Plaintiffs their reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

8. Granting Plaintiffs both pre-judgment and post-judgment interest on each and every monetary award.

9. Granting Plaintiffs such other and further relief as the Court may consider equitable, just and proper.

JACKSON WALKER, LLP

Dated: May 8, 2017

By: *_/s/ John M. Jackson*

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